

BEFORE THE BOARD OF HORSE RACING
DEPARTMENT OF LIVESTOCK
STATE OF MONTANA

In the matter of the proposed adoption) NOTICE OF PUBLIC HEARING
of NEW RULES I through XIII) ON PROPOSED ADOPTION
pertaining to parimutuel wagering)
on fantasy sports leagues)

TO: All Concerned Persons

1. On July 18, 2008, at 10:00 a.m., the Montana Board of Horse Racing (board) will hold a public hearing in the first floor conference room (room 104), Walt Sullivan Building, 1327 Lockey Avenue, Helena, MT, to consider the proposed adoption of the above-stated rules.

2. The board will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the board no later than 5:00 p.m. on July 11, 2008, to advise us of the nature of the accommodation that you need. Please contact Sherry Rust, P.O. Box 200512, Helena, MT 59620-0512; phone: (406) 444-9321; TTD number: 1-800-253-4091; fax: (406) 444-4305; e-mail: srust@mt.gov.

3. The proposed new rules provide as follows:

NEW RULE I DEFINITIONS As used in this chapter, the following definitions apply:

(1) "Administrative week" means an upcoming identified weekly period of Wednesday through the following Tuesday.

(2) "Board" means the Montana Board of Horse Racing provided for in 2-15-3106, MCA.

(3) "Breakage" means the odd cents over a multiple of ten cents arising from the computation of odds and payoffs on parimutuel fantasy sports wagers.

(4) "Common parimutuel pool" means a parimutuel wagering pool consisting of the parimutuel fantasy sports wagers placed at two or more licensed parimutuel facilities in Montana.

(5) "Fantasy sports coordinator" means an official hired by the Department of Livestock (the department) to regulate, audit, approve network operating plans, approve league rules, receive point totals from network, designate point totals as "official," annually select the information service to be used by the network, and control and supervise overall conduct and operation of parimutuel fantasy sports wagering.

(6) "Fantasy sports league" has the meaning found at 23-5-801, MCA.

(7) "Fantasy sports parimutuel system" means a computerized system or component of a system that is used to receive wagering information from and transmit pool data to a parimutuel network.

(8) "Fantasy sports parimutuel wager" means a parimutuel wager at a licensed parimutuel facility in Montana, through a fantasy sports league, on professional sporting events offered as part of a common parimutuel pool.

(9) "Information service" means a person or entity chosen annually by the fantasy sports coordinator to sell or provide information to the licensed fantasy sports parimutuel network, from among those services providing statistics from the individual sport's sanctioning body, and gather statistics on professional team and individual performances, which information is used to create rosters or programs of available professional sports players and teams.

(10) "League member" means a person at least 18 years of age who participates in fantasy sports parimutuel wagering at a Montana-licensed fantasy sports parimutuel facility. The term does not include a corporation, partnership, limited liability company, trust, estate, or any other entity.

(11) "Official league rules" means a set of operating guidelines and requirements proposed by the fantasy sports parimutuel network and subsequently approved by the fantasy sports coordinator, to govern selection of individual sport, selection of players, method of point calculation or scoring, and other information within parameters set by board rule. The rules must be available to each league member and provided upon request. Each set of official league rules must be approved by the fantasy sports coordinator and made official before being used by the network or a parimutuel facility.

(12) "Parimutuel facility" has the meaning found in 23-4-101, MCA, as a facility licensed by the board at which fantasy sports leagues are conducted and wagering on the outcome under a parimutuel system is permitted. In addition, the parimutuel facility must be licensed pursuant to the provision of Title 23, chapter 4, MCA, and [NEW RULE VI].

(13) "Parimutuel hub" means a system to which the parimutuel network will be connected, and which monitors all fantasy sports parimutuel wagering in Montana.

(14) "Parimutuel network" has the meaning found at 23-4-101, MCA, as an association licensed by the board to compile and distribute fantasy sports league rosters and weekly point totals for licensed parimutuel facilities and to manage statewide parimutuel wagering pools on fantasy sports leagues. In addition, the term includes a person engaged in providing the parimutuel fantasy sports system or service directly related to the reconciliation of a common fantasy sports parimutuel pool and transfer of funds between the participating fantasy sports parimutuel facilities. A parimutuel network must be physically located in Montana and operated in Montana.

(15) "Parimutuel network director" means a person or office licensed by the board to solicit facility sites for the network, provide equipment to connect to the parimutuel hub, verify all takeout amounts are collected from the facilities and distributed to the board, advertise, promote, select individual fantasy sports games in which the network may participate, and calculate point totals for professional players or teams based on previously-defined rules for award of points.

(16) "Pool data" means data regarding the results, payoffs, odds or payoff prices, and the aggregate amount of parimutuel fantasy sports wagers accepted on each professional sporting event by all parimutuel fantasy sports facilities.

(17) "Post time" means five minutes before the scheduled start of a professional sporting event or such other time as designated by league rule.

(18) "Roster" or "program" means a list of eligible professional sports participants for the appropriate period; eligible specific professional sports races, games, matches, or contests for the appropriate period; and types of combination wagers eligible to be placed for that sport in that period. The roster or program must be prepared by the Montana licensed parimutuel network for fantasy sports, and must be provided to each league member.

(19) "Sporting event" means an individual race, game, match, or contest, and any group, series, or part thereof from a given professional sport. The term does not include horse or dog races.

(20) "Takeout" means an amount retained and not returned to patrons by a licensed parimutuel fantasy sports facility from the aggregate amount of parimutuel fantasy sports wagers.

(21) "Team" means a fictitious team of not less than two players composed of athletes from a given professional sport.

(22) "Wagering information" means the amount of parimutuel fantasy sports wagers accepted for each sporting event by a single parimutuel fantasy sports facility.

(23) "Wagering period" means a period of time as defined by league rule for a single or multiple day event.

AUTH: 23-4-104, MCA

IMP: 23-4-101, 23-4-104, 23-4-201, 23-4-202, 23-4-301, 23-4-302, 23-4-304, 23-5-801, 23-5-802, 23-5-805, 23-5-806, MCA

NEW RULE II LICENSES ISSUED FOR CONDUCTING PARIMUTUEL WAGERING ON FANTASY SPORTS -- FEES

(1) A person or entity shall not conduct, nor accept wagers for parimutuel fantasy sports in Montana unless the person or entity has applied for and been granted a license pursuant to Title 23, chapter 4, MCA, and this chapter in one or more of the following categories:

- (a) parimutuel network;
- (b) parimutuel network director; or
- (c) parimutuel facility.

(2) The annual licensing fee for fantasy sports parimutuel licenses shall be as follows, subject to amendments by the board that are applied equally across a single category:

- | | |
|---------------------------------|--------|
| (a) parimutuel network | \$1000 |
| (b) parimutuel network director | 250 |
| (c) parimutuel facility | 75 |

AUTH: 23-4-104, MCA

IMP: 23-4-101, 23-4-201, 23-4-202, MCA

NEW RULE III FANTASY SPORTS PARIMUTUEL NETWORK DUTIES -- LICENSE REQUIREMENTS

(1) The board may issue parimutuel network licenses

to qualified applicants. A licensed fantasy sports parimutuel network shall perform the following duties:

(a) provide the parimutuel fantasy sports system or service directly related to the reconciliation of a common fantasy sports parimutuel pool and transfer of funds among the participating fantasy sports parimutuel facilities and the board;

(b) contract with the parimutuel hub selected and licensed by the board and provide equipment to connect into the parimutuel hub, as per the hub requirements;

(c) ensure all takeout amounts are collected and distributed to the board as per the reports from the hub;

(d) utilize an information service approved by the fantasy sports coordinator to gather statistics on professional team and individual performances and calculate point totals for professional players or teams based on previously-defined rules for award of points;

(e) utilize an information service approved by the fantasy sports coordinator to create rosters or programs of available professional sports players and teams and distribute fantasy sports league rosters to parimutuel facilities;

(f) compile and distribute periodic point totals to parimutuel facilities;

(g) manage statewide parimutuel pools on fantasy sports leagues;

(h) solicit nonexclusive sites for the network, and contract with all parimutuel facilities which have been licensed by the board;

(i) advertise, promote, and select propositions or official league rules for fantasy sports wagering;

(j) ensure compliance with all board statutes and rules;

(k) create and keep the records and reports required by the board in such a manner and using such forms as the board may require. Records shall be preserved for at least five years after they are made. The board may at any time examine and copy the records; and

(l) other duties as required by the board or its designee.

(2) A network applicant must be physically located within the state of Montana. The network applicant's equipment must be located in Montana.

(3) An application to operate as a fantasy sports parimutuel network must be filed on a form provided by the board, and must include a proposed operating plan, a proposed board payment contract, and the appropriate application fee.

(4) The application must include the following information:

(a) the applicant's legal name;

(b) if the applicant is a corporation, the names, addresses, dates of birth of its shareholders, directors, managers, and officers;

(i) if a shareholder is a corporation, the date of incorporation, the place of incorporation, and the names, addresses, and dates of birth of its shareholders, directors, and officers must be provided.

(c) if the applicant is a partnership, the names, addresses, dates of birth of the partners;

(i) if a partner is a corporation, the date of incorporation, place of incorporation, and the names, addresses, and dates of birth of its shareholders must be provided.

(d) if the applicant is a corporation ultimately owned by a not-for-profit entity without any shareholders, or is a publicly traded corporation, the information

required in (4)(b) and (c) shall be required from the directors of the membership organization, or the directors and officers of the publicly traded corporation, in lieu of the shareholders;

(e) financial information from the applicant that demonstrates whether the applicant has the financial resources to install and operate or contract with a hub;

(f) a detailed budget showing anticipated revenue, expenditures, and cash flows by month, from the network's operation during the license period;

(g) the number of days the applicant is planning to operate the network during the calendar year in which the applicant seeks to be licensed;

(h) a list of all network personnel containing the name, position, job location, any gaming license number, and expiration date issued by any jurisdiction. All current gaming licenses should be listed, regardless of jurisdiction;

(i) a chart illustrating the organizational structure, including reporting lines;

(j) a list of states where the network is operating;

(k) documentation of proper filing that the network applicant is physically located in Montana, physically operating in Montana, and is registered to do business in the state of Montana; and

(l) sufficient identifying information to allow the board to conduct a criminal background check on all principals within the network applicant's organization.

(5) An applicant shall submit a detailed proposed operating plan in a format and containing such information as required by the board. The operating plan shall include:

(a) the manner in which the proposed fantasy sports parimutuel network will operate;

(b) the process for handling wagers when wagering pools cannot be merged with the wagering pools of other fantasy sports parimutuel facilities;

(c) the process for fulfilling all duties as required by this rule; and

(d) any other issues as required by the board.

(6) An applicant shall submit a detailed proposed board payment contract in a format and containing such information as required by the board.

(7) The board or its designee shall conduct investigations or inspections or request additional information from the applicant as it deems appropriate in determining whether to approve the license application.

(8) The correct initial license application fee must accompany an application. The fee is nonrefundable.

(9) A parimutuel network license shall be in effect from January 1 to December 31 of each year and shall be renewed annually unless otherwise rescinded by the board.

AUTH: 23-4-104, 23-4-202, MCA

IMP: 23-4-201, MCA

NEW RULE IV PARIMUTUEL NETWORK DIRECTOR -- LICENSE REQUIREMENTS

(1) A licensed parimutuel network shall name a parimutuel network director. It shall be the parimutuel network director's duty to:

(a) solicit facility sites for the network;

(b) provide equipment to connect to the parimutuel hub;

- (c) verify all takeout amounts are collected from the facilities and distributed to the board;
- (d) advertise, promote, and select individual fantasy sports games in which the network may participate from the official league rules previously approved by the fantasy sports coordinator; and
- (e) all other necessary duties.
- (2) The network director shall:
 - (a) act as a liaison among the parimutuel network, parimutuel hub, parimutuel facility licensees, and the board and its representatives;
 - (b) supervise the management of the statewide wagering pools; and
 - (c) assure the fantasy sports parimutuel statutes and rules are complied with; and
 - (d) assure that moneys are correctly deposited and paid.
- (3) An application to operate as a fantasy sports parimutuel network director must be filed on a form provided by the board and must include the appropriate application fee. The correct initial license application fee must accompany an application. The fee is nonrefundable.
- (4) The board may conduct investigations or inspections or request additional information from the applicant as it deems appropriate in determining whether to approve the license application.
- (5) A parimutuel network director license shall be in effect from January 1 to December 31 of each year and shall be renewed annually unless otherwise rescinded by the board.

AUTH: 23-4-104, 23-4-202, MCA
IMP: 23-4-201, MCA

- NEW RULE V FANTASY SPORTS PARIMUTUEL HUB (1) A licensed parimutuel network shall contract with the parimutuel hub selected and licensed by the board. There shall be only one fantasy sports parimutuel hub in Montana. The parimutuel hub shall perform the following duties:
- (a) monitor all wagers;
 - (b) maintain a computerized system capable of connection with all parimutuel facilities;
 - (c) enter all sports game propositions into the system;
 - (d) ensure information is available to the parimutuel network for electronic display or over the Internet;
 - (e) verify all wagering is halted at the prescribed time as determined by the board or the fantasy sports coordinator;
 - (f) distribute accounting for the network, as well as all accounting required by the board; and
 - (g) other duties as required by the board or its designee.
- (2) The parimutuel hub must be physically located within the state of Montana. The hub's equipment must be located in Montana.

AUTH: 23-4-104, 23-4-202, MCA
IMP: 23-4-201, MCA

NEW RULE VI PARIMUTUEL FACILITY -- LICENSE REQUIREMENTS

(1) The board or its designee may issue a license to a parimutuel facility at which fantasy sports leagues are to be conducted and wagering on the outcome under a parimutuel system shall be permitted.

(2) A license to operate a parimutuel facility conducting fantasy sports league wagering may not be issued to an applicant unless the applicant is also licensed under Title 23, chapter 5, MCA, as gambling operator.

(3) An application to operate as a fantasy sports parimutuel facility must be filed on a form provided by the board, and must include a copy of a valid, current, state-issued gambling establishment operator license in good standing, and the appropriate application fee.

(4) The board or its designee shall conduct investigations or inspections or request additional information from the applicant as it deems appropriate in determining whether to approve the license application. The correct initial license application fee must accompany an application. The fee is nonrefundable.

(5) A parimutuel facility license shall be in effect from January 1 to December 31 of each year and shall be renewed annually unless otherwise rescinded by the board.

AUTH: 23-4-104, 23-4-202, MCA

IMP: 23-4-201, MCA

NEW RULE VII FANTASY SPORTS COORDINATOR

(1) The department shall hire a fantasy sports coordinator recommended to the department by the board to:

- (a) regulate, audit, and approve network operating plans;
- (b) approve league rules;
- (c) receive point totals from network;
- (d) designate point totals as "official";
- (e) annually select the information service to be used by the network from those services providing statistics from the individual sports sanctioning bodies; and
- (f) control and supervise overall conduct and operation of parimutuel fantasy sports wagering.

(2) Failure of the coordinator to enforce the fantasy sports parimutuel wagering rules or to meet the responsibility of the office shall be just cause for dismissal of the coordinator.

(3) The fantasy sports coordinator shall supervise the conduct of parimutuel wagering on fantasy sports, including supervision of the licensed parimutuel network, the licensed network director, the parimutuel hub, and all licensed parimutuel facilities. The coordinator shall have full authority to enforce the rules as adopted by the board or as provided by the laws of Montana and such additional duties as set forth in the rules or as ordered by the board.

(4) The coordinator shall not separately impose fines or any other license disciplinary measure, but shall report all statute or rule violations to the board for imposition of license discipline, when appropriate, under the provisions of the Montana Administrative Procedure Act.

- (5) The coordinator shall perform other duties as directed by the board.

AUTH: 23-4-104, 23-4-202, MCA

IMP: 23-4-201, MCA

NEW RULE VIII GENERAL CONDUCT OF FANTASY SPORTS

PARIMUTUEL WAGERING (1) The network director shall prepare proposed league rules for each sporting event on which the network will offer parimutuel wagering during a designated wagering period. The proposed league rules shall include:

- (a) a description of the eligible specific professional sports races, games, matches, or contests on which parimutuel wagering will be allowed;
- (b) types of combination wagers eligible to be placed for a sport under league rules in any parimutuel wagering period; and
- (c) a list of eligible professional sports participants for the appropriate period.

(2) The parimutuel network director shall submit the proposed league rules to the board's fantasy sports coordinator for approval at least 30 days prior to the wagering period during which the sporting event will occur or during which parimutuel wagering will be allowed under those league rules. No league rules shall be provided by the network to the hub, facility, or wagering public before the league rules are approved by the fantasy sports coordinator and made official.

(3) The parimutuel network director shall select one or more sporting events, from among the sets of official league rules approved by the fantasy sports coordinator, on which parimutuel wagering will be conducted during an upcoming administrative week, identified as a weekly period of Wednesday through the following Tuesday. The network director shall notify the fantasy sports coordinator in writing at least one week prior to the appropriate wagering administrative week as to which sporting events under official league rules will be included in each particular wagering administrative week.

(4) The parimutuel network shall compile a roster or program for the appropriate period, including eligible specific professional sports races, games, matches, or contests for the appropriate period, types of combination wagers eligible to be placed for that sport in that period, and a list of eligible professional sports participants. The roster or program must be provided to each league member. The roster or program shall be placed into the parimutuel computer system for the appropriate periodic start date.

(5) Each periodic sporting event roster or program must be provided by the network to each licensed parimutuel facility. Each periodic sporting event roster or program must also be provided to the parimutuel wagering public. The roster or program must be provided in hard copy, but may also be available via an Internet site.

(6) Fantasy sports parimutuel wagering shall be conducted within the appropriate wagering period for each sporting event for which league rules have been made official by the coordinator, and which has been chosen and is being offered by the network under its periodic roster or program.

(7) Fantasy sports parimutuel wagering shall end promptly five minutes prior to post time for each sporting event, and the machines shall be locked at that time by the parimutuel network.

(8) While the sporting events are underway, a running total of points may be calculated by the information service and provided by the networks to the network facilities via Internet or other means.

(9) When each individual sporting event is concluded, the network, through its information service, shall calculate point totals. Based on the point totals, the official winners are declared, and made official by the fantasy sports coordinator. Any error in point calculations discovered after the point totals are made official by the coordinator shall be disregarded. The point totals shall be promptly provided to the parimutuel hub. Winning tickets may be cashed at any time after the sports event results are made official.

(10) At the conclusion of each periodic sporting event, the hub shall send reconciliation statements showing amounts handled on each individual sports event to the parimutuel facilities, parimutuel network, and the fantasy sports coordinator.

(11) The parimutuel network shall remit the correct takeout amount from all parimutuel facilities to the board within seven days after the conclusion of each administrative week. The remitted amount shall not include breakage or unclaimed ticket amount takeout.

(12) The board shall distribute the takeout amount as per 23-4-302, MCA.

AUTH: 23-4-104, 23-4-202, MCA

IMP: 23-4-202, 23-4-302, 23-4-304, 23-5-801, 23-5-805, MCA

NEW RULE IX FANTASY SPORTS PARIMUTUEL OPERATIONS

(1) Wagering will only be permitted at a licensed fantasy sports parimutuel facility by means of a parimutuel system that has been approved by the board.

(2) No employee of the parimutuel network, parimutuel director, parimutuel facility, or hub operations may place a wager for the employee personally or any other person during the actual work period for which the employee is licensed as a parimutuel occupational employee.

(3) Any claim by a patron that a wrong ticket has been delivered must be made before leaving that parimutuel ticket window or parimutuel self service machine. No claim shall be considered after that time, and no claim shall be considered for tickets that are discarded, lost, changed, destroyed, or mutilated beyond identification. Payment will be made only upon presentation of appropriate parimutuel tickets.

(4) The parimutuel facility licensee shall not sell or cash parimutuel tickets to persons under 18 years of age. Signs indicating that persons under age 18 are not allowed to wager shall be conspicuously displayed near the selling and cashing windows.

(5) The parimutuel facility shall ensure that all parimutuel tickets sold on a sporting event during an administrative week are purchased or cashed from the regular ticket windows or parimutuel self service machine.

(6) All parimutuel facility employees working with parimutuel selling machines must be licensed by the board and given instructions by the facility manager, network director, or their designee prior to the start of their duties.

(7) The parimutuel facility shall make available to the public the actual winning amount to be paid for each winning ticket after results are made official.

(8) A parimutuel facility shall complete all forms summarizing each wagering administrative week's mutuel operations, and verification of the payoff computations, and completion of such other forms as may be required by the network director or fantasy sports coordinator.

(9) The parimutuel network shall ensure payouts, pool totals, and winning combinations for each fantasy sports event are available to the public at each licensed parimutuel facility after the official results have been posted.

(10) The parimutuel facility shall conspicuously display rules at its licensed premises which govern wagering transactions with patrons. The rules must specify takeout amounts, the amounts to be paid on winning wagers, and the redemption period for winning tickets.

(11) The parimutuel network and network director are responsible for the accuracy of all payoff prices.

(12) The parimutuel network director shall prepare or have prepared a parimutuel recapitulation form at the end of each administrative week. The recapitulation form shall be provided to the fantasy sports coordinator or the board.

(13) The parimutuel network licensee may be required to furnish a certified public accountant, licensed to practice in Montana, with the following duties:

- (a) completion of the forms summarizing each week's mutual operation;
- (b) verification of the payoff computations;
- (c) completion of such other forms as may be required by the board; and
- (d) submission of financial statements covering parimutuel operations for the fiscal year.

(14) The parimutuel network director must verify deposit of all receipts and submit statements showing parimutuel receipts, percentages retained, and such other information as may be required for the proper administration of the law to the fantasy sports coordinator and the board. The information shall be submitted within seven days after the close of the fantasy sports administrative week.

(15) The parimutuel network shall report to the fantasy sports coordinator and the board the total face value of all unclaimed winning tickets quarterly.

AUTH: 23-4-104, 23-4-202, MCA

IMP: 23-4-202, 23-4-302, 23-4-304, 23-5-801, 23-5-805, MCA

NEW RULE X THE PARIMUTUEL SYSTEM (1) Betting shall not commence for the administrative week until the parimutuel hub has demonstrated to the satisfaction of the parimutuel facility, parimutuel network director, and the fantasy sports coordinator that the mutuel system is operating properly.

(2) The parimutuel facility shall not allow betting on any connected issuing machine:

- (a) which fails to issue legible tickets, properly record on the tote the issuance of a ticket, function in any way which would materially interfere with the

proper calculation of a pool, or the proper supervision of the operation of the mutuel system;

(b) on which any part of the machinery in the automated mutuel system malfunctions so as to materially interfere with the proper calculation of a pool or the proper supervision of the operation of the mutuel system;

(c) which bears a ticket code identical to any previous day of the administrative week, or has tickets that bear serial numbers inclusive of any used during a previous administrative week; or

(d) for which the parimutuel facility has failed to draw a test ticket prior to the first wager during an administrative week.

(3) If the parimutuel facility or parimutuel network director refuses to authorize the opening of wagering, the parimutuel facility shall explicitly explain to the fantasy sports coordinator the reason for the refusal. When the defects in the mutuel system are remedied and its adequacy demonstrated, the parimutuel facility or parimutuel network director shall authorize the opening of wagering.

(4) A random testing program shall be performed on a computerized system to verify that all functions of the system are working properly. This shall be done prior to the opening of each day of the administrative week by the parimutuel facility.

AUTH: 23-4-104, 23-4-202, MCA

IMP: 23-4-202, 23-4-302, 23-4-304, 23-5-801, 23-5-805, MCA

NEW RULE XI IMPROPER OPERATION (1) If an error is made in posting the payoff figures to the public, the error shall be corrected promptly and only the correct amounts shall be used in the payoff, irrespective of the error posted to the public, but no change shall be made in the payoff after the cashing of winning tickets has commenced. If an error is discovered before the payoff is started, the correct payoff shall be posted.

(2) Illegible or mutilated tickets shall not be sold; further they shall be voided with ink or mutilation and accounted for by the parimutuel facility and parimutuel network in calculation of the gross pool, but not to be included as winning tickets.

(3) Illegible or mutilated tickets issued by a ticket issuing machine shall not be sold. These tickets are to be voided by ink or mutilation and are to be attached to the calculation sheet for their respective pool and sporting event.

(4) The parimutuel facility shall be responsible for all parimutuel employee's errors. Any customer complaint concerning a parimutuel employee's error shall be immediately called to the attention of the parimutuel network director, and the parimutuel network director's decision shall be final.

(5) A validly issued parimutuel ticket timely surrendered to the parimutuel facility by the legal holder shall be the only evidence of a person's participation in parimutuel wagering. The acceptance of a parimutuel ticket by taking an issued ticket away from the window or terminal from which it is purchased shall constitute an acknowledgment by the purchaser of the correctness of the ticket, and each purchaser of a parimutuel ticket agrees to be bound by the terms and provisions of this and all other applicable board rules and regulations, and by the laws of the state of Montana pertaining to parimutuel wagering. Neither the parimutuel hub, parimutuel network, parimutuel facility, the board, nor the state of Montana shall be

liable to any person for any ticket which is not a winning ticket in accordance with the provisions of these rules nor shall they, or any of them, be liable to any person for any parimutuel ticket not delivered for any reason, including but not limited to mechanical malfunction, electrical failure, machine locking, or other causes.

AUTH: 23-4-104, 23-4-202, MCA

IMP: 23-4-202, 23-4-302, 23-4-304, 23-5-801, 23-5-805, MCA

NEW RULE XII REVIEW AND AUDIT OF RECORDS -- REPORTING REQUIREMENTS -- ENFORCEMENT

(1) The fantasy sports coordinator and the board and its staff will be given unrestricted access, for review and audit, to all records and financial information of the parimutuel network and the parimutuel hub. This information will be made available to the fantasy sports coordinator or the board, by the parimutuel network director at the network or hub location, upon notice from the fantasy sports coordinator or the board or board staff, at all reasonable times to the extent such disclosure is not expressly prohibited by law.

(2) The following reports shall be submitted to the fantasy sports coordinator or the board:

- (a) parimutuel recapitulation form for each accounting week;
- (b) a transmission failure report signed by the parimutuel network operator must be filed with the board within 48 hours whenever wagers are not transmitted to, received by, or otherwise accepted by the hub for any reason. The financial implication of such failure should be detailed in this report; and
- (c) all parimutuel network and parimutuel facility licensees shall report any known or suspected irregularities, wrongdoing, or rule violations by any person involving parimutuel fantasy sports wagering immediately to the fantasy sports coordinator or the board and shall cooperate in subsequent investigations.

(3) The following reports generated by the parimutuel network or parimutuel facility shall be available for inspection by the fantasy sports coordinator and the board upon request:

- (a) parimutuel facility wagering handle;
- (b) reports for taxation purposes;
- (c) customer complaints;
- (d) log of all system accesses and adjustments to the master file;
- (e) list of all wagers and winning payouts; and
- (f) wagering report forms for all wagers over \$10,000.

(4) The board may require the parimutuel network director and hub to annually submit audited financial statements.

(5) The parimutuel network shall create and keep the records and reports required by the board in such a manner and using such forms as the board may require. Records shall be preserved for at least five years after they are made. The board may at any time examine and copy the records.

(6) All proceedings against an applicant for licensure or a licensee shall be before the board.

AUTH: 23-4-104, 23-4-202, MCA

IMP: 23-4-202, 23-4-302, 23-4-304, 23-5-801, 23-5-805, MCA

NEW RULE XIII UNLAWFUL ACTIVITY (1) As set forth in 23-4-301, MCA, it is unlawful to conduct pool selling or bookmaking or to wager on a fantasy sports league other than by the parimutuel system and by being physically present at a licensed parimutuel facility.

(2) As set forth in 23-4-301, MCA, it is unlawful to permit a minor to use the parimutuel system.

(3) As set forth in 23-4-301, MCA, it is unlawful to conduct internet or telephone parimutuel wagering on fantasy sports leagues.

(4) No wagers may be accepted or paid by a parimutuel facility on a collegiate sport or athletic event. A collegiate sport or athletic event is an event offered or sponsored by or played in connection with a public or private institution that offers educational services beyond the secondary level.

(5) No wager may be accepted or paid by a parimutuel facility on any amateur sport or athletic event.

(6) No wager may be accepted or paid by a parimutuel facility on any non sporting event.

(7) Parimutuel facilities shall not accept wagers unless made by an individual person, physically present at the parimutuel facility site with cash.

(8) Parimutuel facilities shall not accept wagers except at licensed premises, and only at betting stations approved by the fantasy sports coordinator or the board.

(9) Parimutuel facilities shall not knowingly accept money or its equivalent ostensibly as a wager upon a sporting event whose outcome has already been determined. A licensed parimutuel network shall not create a roster or program for, and a licensed parimutuel facility shall not accept a wager on a sporting event unless the date and time at which the outcome of the sporting event is determined can be confirmed from reliable sources satisfactory to the fantasy sports coordinator or the board, or from records created and maintained by the parimutuel network in such manner as the fantasy sport coordinator or the board may approve.

(10) Parimutuel facilities shall not accept wagers on a sporting event unless league rules for the event have previously been submitted by the parimutuel network to the fantasy sports coordinator and approved by the coordinator, and then made available to the parimutuel facility by the parimutuel network as an option to be used by the parimutuel facility for that wagering period.

(11) Parimutuel facilities shall not accept wagers on a sporting event unless the event has been chosen by the facility for inclusion in that wagering period, and the availability of the sporting event posted at the facility. Chosen sporting events for each wagering period must be posted on the roster or program provided to each patron, and may also be posted by electronic or manual means, including printed media. Posted sporting events must be chosen by a parimutuel facility for a wagering period prior to the start of the wagering period, and no changes to the chosen options shall occur during the wagering period.

(12) Parimutuel facilities shall not accept any wager in excess of \$10,000 unless the following steps have all been completed:

- (a) obtain the patron's name;
- (b) obtain the patron's permanent address and social security number;
- (c) obtain one of the following identification credentials from the patron:

- (i) driver's license;
 - (ii) passport;
 - (iii) nonresident alien identification card;
 - (iv) other reliable government-issued identification credentials; or
 - (v) other picture identification credential normally accepted as a means of identification when cashing checks; and
 - (d) examine the identification credential obtained to verify the patron's name, and to the extent possible, to verify the accuracy of the information obtained.
- (13) Subsequent to accepting a wager in excess of \$10,000, the parimutuel facility employee shall record or maintain records that include:
- (a) the patron's name, and if applicable, the agent's name;
 - (b) the patron's address, and if applicable, the agent's address;
 - (c) the patron's social security number, and if applicable, the agent's social security number;
 - (d) a description, including any document number of the identification credential examined, and if applicable, for the agent;
 - (e) the amount of the wager;
 - (f) window number or other identification of the location where the wager occurred;
 - (g) the time and date of the wager;
 - (h) the name and signature of the parimutuel employee accepting or approving the wager; and
 - (i) any other information as required by the fantasy sports coordinator or the board.
- (14) Each parimutuel facility shall report the wagers required to be recorded on a wagering report form provided by the board.
- (15) Parimutuel facilities and their employees shall not knowingly allow, and shall take steps to prevent, the circumvention of the \$10,000 wager identification and reporting rule by multiple wagers within its designated administrative week with a patron or by the use of a series of wagers that are designed to accomplish indirectly what could not be accomplished directly.
- (16) Parimutuel facilities and the parimutuel network and all parimutuel employees shall not encourage or instruct patrons to structure or attempt to structure wagers. This section does not prohibit a parimutuel facility or parimutuel employee from informing a patron of the regulatory requirements imposed upon the parimutuel facility.
- (17) Parimutuel facilities shall make payment on a winning wager to a person who presents the patron's copy of the betting ticket representing the wager at the parimutuel facility at which it was issued. A parimutuel facility or employee need not make payment to a person who the employee knows is not the person to whom the patron's betting ticket was issued. Parimutuel facilities and parimutuel employees shall not make payment on a winning wager to a person who the facility or employee knows or reasonably should know is collecting the payment on behalf of another for monetary consideration or in violation of state or federal law.
- (18) Parimutuel facilities shall honor winning betting tickets for 30 days after the conclusion of the administrative week. The parimutuel facility shall state the redemption period on each betting ticket, in league rules, and on notices

conspicuously placed about the licensed premises. Payment by mail may be made only after presentment of the betting ticket, and must be made not later than ten days after presentment.

AUTH: 23-4-104, 23-4-202, MCA

IMP: 23-4-202, 23-4-301, 23-4-302, 23-4-304, 23-5-801, 23-5-802, 23-5-805, MCA

REASON: The proposed new rules are necessary to implement the provisions of House Bill 616, codified at Title 23, chapter 4, and Title 23, chapter 5, MCA, as passed by the 2007 Montana Legislature. HB 616 required the board to create and administer a program which allows parimutuel wagering on fantasy sports leagues conducted by a parimutuel facility that has been licensed by the board. The bill provided for the board to regulate parimutuel wagering on fantasy sports through a licensed parimutuel network and licensed parimutuel sites. The proposed new rules will set forth definitions, outline the licensing requirements, outline duties of licensees, set forth the procedures for parimutuel fantasy sports wagering, set forth the various types of bets which will be permitted on fantasy sports, and set forth unlawful activities which will not be allowed under parimutuel fantasy sports wagering.

New Rule I explains the definition of terms used throughout the rules and is necessary to inform the public of the meaning of various words and phrases to be used in parimutuel fantasy sports wagering.

New Rule II lists the types of licenses authorized by HB 616 which will be issued by the board. The rule is necessary to notify the public of the types of licenses which will be required to participate in the conduct of parimutuel fantasy sports wagering. The proposed rule also lists the fees which will be charged for these licenses. The proposed fees will generate \$22,500 based on the 300 licensees anticipated in the state.

New Rule III sets forth the licensed parimutuel network's duties, and is necessary to inform any license applicant or licensee of the duties that will be required by the board for a person or entity who wishes to conduct parimutuel fantasy sports wagering as a network licensee. The proposed rule also sets forth the licensing requirements that will be sought by the board in order to grant a parimutuel network license.

New Rule IV sets forth the network director license requirements and is necessary to inform both network applicants and network director applicants of the requirements that will be in place for the board to grant an application for this type of license.

New Rule V sets forth the duties of the parimutuel hub. The hub will be contracted with or a part of the parimutuel network, but the rule is necessary to inform the network licensee of the duties its hub will be required to perform in conducting parimutuel fantasy sports wagering.

New Rule VI sets forth the parimutuel facility licensure requirements and is necessary to inform parimutuel facility license applicants of the requirements that must be met for the board to grant an application for this type of license.

New Rule VII creates the position of a fantasy sports coordinator, as an employee of the board who will oversee parimutuel fantasy sports regulation. The

proposed rule is necessary to outline the duties of this board position and inform the public and any potential job applicants of the authority and activities this position will entail.

New Rule VIII on parimutuel operations sets forth the general conduct of parimutuel fantasy wagering and is necessary to outline for licensees, potential participants, and the general public the procedures that will be used to conduct parimutuel fantasy sports. The proposed rule gives the steps including board preapproval of each league rule and sporting event that will be offered to the general public, as well as defining the wagering period, the point total scores, the close of betting, and other necessary components of the process.

New Rule IX gives requirements for the parimutuel operation so that licensees and the public will be informed as to the requirements for posting of odds, payouts, auditing, and reporting.

New Rule X on the parimutuel system sets forth requirements for the parimutuel system and is necessary so the parimutuel network licensee and parimutuel facility licensees are aware the parimutuel system must be tested and maintained in good working order to ensure the wagering public that bets are being recorded accurately for payout.

New Rule XI on improper operations sets forth the procedures for errors and underpayments as well as some waiver of liability language for the parimutuel facility which is necessary for the betting public who do not always win their bets, so must be aware there is no recourse in this event.

New Rule XII on review and audit of records lists the various reports and records that must be created by the parimutuel facility and parimutuel network for review and audit by the fantasy sports coordinator and the board. The proposed rule is necessary to inform licensees and the public that the board will have oversight of the parimutuel fantasy sports wagering through financial audits and records to ensure the integrity of the wagering system.

New Rule XIII on unlawful activity sets forth the types of situations that are not allowed under parimutuel fantasy sports wagering including wagering by minors, wagering via Internet or telephone, wagering over \$10,000 without a record being kept, etc. This proposed rule is necessary to notify the betting public of the types of situations that will not be allowed under parimutuel fantasy sports wagering. The rule will also notify parimutuel licensees of situations that are not allowed or their license may be affected.

4. Concerned persons may submit their data, views, or arguments either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Montana Board of Horse Racing, Attn: Sherry Rust, P.O. Box 200512, Helena, MT 59620-0512, by faxing to (406) 444-4305, or by e-mailing to srust@mt.gov to be received no later than 5:00 p.m., July 25, 2008.

5. An electronic copy of this proposal notice is available through the department's site at www.mt.gov/liv/default.asp. The board strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the

Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that a person's difficulties in sending an e-mail do not excuse late submission of comments.

6. The Board of Horse Racing maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the board. Persons who wish to have their name added to the list shall make a written request, which includes the name and mailing address of the person to receive notices and specifies the area of interest that the person wishes to receive notices regarding. Such written request may be mailed or delivered to Montana Board of Horse Racing, Attn: Sherry Rust, P.O. Box 200512, Helena, MT 59620-0512, by faxing to (406) 444-4305, or by e-mailing to srust@mt.gov. Request forms may also be completed at any rules hearing held by the board.

7. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was notified on August 14, 2007, by regular mail.

8. A representative for the Montana Board of Horse Racing will preside over and conduct the hearing.

BOARD OF HORSE RACING
DEPARTMENT OF LIVESTOCK

BY: /s/ SHERRY K. MEADOR
Sherry K. Meador
Alternate Rule Reviewer

BY: /s/ CHRISTIAN MacKAY
Christian Mackay, Executive Director
DEPARTMENT OF LIVESTOCK

Certified to the Secretary of State June 16 , 2008.